

February 20, 2003

Country of Origin Labeling Program
Agricultural Marketing Service, USDA
Stop 0249, Room 2092-S
1400 Independence Ave., SW
Washington, DC 20250-0249

Re: Docket Number LS-02-13, Establishment of Guidelines for the Interim Voluntary Country of Origin Labeling of Beef, Lamb, Pork, Fish, Perishable Agricultural Commodities, and Peanuts Under the Authority of the Agricultural Marketing Act of 1946.

The Michigan Farm Bureau (MFB) represents the majority of the beef, hog, sheep and fruit and vegetable producers in Michigan. We appreciate the opportunity to comment on the country of origin guidelines.

MFB is pleased with the progress in implementing the country of origin labeling program and agrees with the vast majority of the guidelines outlined in the Federal Register notice. AMS has, for the most part, correctly defined the fresh and frozen meat, fruit and vegetable products that must be labeled, as well as correctly outlined what constitutes a "Product of the U.S.", products of other countries and those products that have been born, raised and processed in more than one country. However, we have some concerns about the proposed regulation.

Our first concern is the required audit trail and recordkeeping requirements. The statute states "The Secretary may require that any person that distributes a covered commodity for retail sale maintain a verifiable record keeping audit trail...to verify compliance....". We believe the intent of this language was to require a record keeping system from the processing plant through retail sale, but not from the producer to the processor. In fact, the statute states, "The Secretary shall not use a mandatory identification system to verify the country of origin of a covered commodity." It is impossible to have a verifiable, auditable record keeping system without an identification system. The proposed rule implements a de facto producer identification system. Whether explicit or implicit, the statute prohibits requiring such an identification system. We strongly urge the Department to eliminate the producer recordkeeping requirement.

The vast majority of the meat processed in this country is of U.S. origin and qualifies for the "Product of the U.S." label as set forth in the proposed rule. Animals imported into this country must have health certificates, as well as other papers in many cases. As a result, it is rather easy for the producer to identify which livestock would not be eligible for the "Product of the U.S." label. Accordingly, it would be easy for the producer to self-certify to the processor which livestock were born and raised in the U.S. and those that were not. A self-certification system by the producer coupled with a record keeping system from the processor to the retailer would carry out the legislative language and intent of the statute much closer and more efficiently than the proposed rule.

The statute states, "To certify the country of origin of a covered commodity, the Secretary may use as a model certification programs in existence on the date of enactment of this Act." MFB suggests that AMS consider the Market Access Program (MAP) model.

USDA has operated the MAP for well over a decade with excellent results. MAP is very similar to the Country of Origin labeling program. The proposed rule requires all product labels to identify the origin of the commodity as "Product of the U.S.", "Product of the U.S.A.", "Grown in the U.S.A.", or "Made in America". Each non-branded product must contain at least 50 percent U.S. agricultural origin by weight, while branded products must contain 100 percent U.S. origin product.


MAP also requires a similar verifiable, auditable trail system. The difference is the processor is the verifier for the MAP. The processor, however, verifies the country of origin by accepting a self-certification from the producer as to the origin of the livestock, fruits and vegetables.

While USDA has accepted such verification by the producer for more than a decade, it appears the Department views self-certification of origin for this proposed rule as inadequate since it requires AMS to conduct producer audits to ensure the accuracy of producer certification. Since the MAP has worked so well, without any perceived problems as to the country of origin of the products involved in the program, the same system should be implemented for a country of origin labeling program. USDA has failed to show why the MAP is not an acceptable model as required by the language of the statute.

MFB is also concerned about how AMS is interpreting what does not need to be labeled at the consumer level under this program. While we agree that commodities that have been "materially changed" do not need to be labeled, AMS states that items such as cured ham and raw corned beef brisket would fall under this exemption. We do not believe that the act of curing or aging alters a product to the point that its character no longer resembles that of the covered commodity, especially since the proposed rule requires that blended products be labeled. In the proposed rule, AMS used an example of bagged salad and suggested it would be impossible to label such a product due to the multiple ingredients. We believe the character of each ingredient in such a bagged salad has gone through a much greater alteration of character than curing or aging of meat. Virtually everyone can clearly identify that a cured ham is still a ham, or that aged beef is still beef. It is difficult to distinguish between a required label on water enhanced case ready steaks and no label required on a cured ham. MFB believes that products, even though they have had some added ingredients, should still be labeled as to their country of origin as long as they retain generally recognized characteristics of the original item. A cured ham is still a muscle cut of pork, and the law clearly states that muscle cuts of beef, pork, lamb and others must be labeled as to their country of origin.

We look forward to working with the Department to establish workable rules. If the program is to be implemented by the statutory deadline of September 2004, it is imperative that proper guidelines and rules be established soon. Some livestock alive today, and much of the beef that will be born this spring and summer, will fall under the mandatory labeling requirements. It is important that producers know in advance what requirements they must meet in order to sell their U.S. origin products in the marketplace.

Sincerely,



Albert A. Almy, Director
Public Policy & Commodity Division